



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/638,159 Confirmation No.: 3580  
Applicant : Ernest Chacon  
Filing Date : August 7, 2003  
Title : Battery Storage Apparatus  
Group Art Unit : 1745  
Examiner : Not Yet Assigned  
Docket No. : 13710-4001  
Customer No. : 34313

Commissioner for Patents  
PO Box 1450  
Mail Stop Patent Application  
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT**

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-1449 and copies are enclosed for the convenience of the Examiner.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

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CERTIFICATE OF MAILING (37 CFR §1.8)

I hereby certify, pursuant to 37 CFR §1.8, that I have reasonable basis to expect that this paper or fee (along with any referred to as being attached or enclosed) would be mailed or transmitted on or before the date indicated with the United States Postal Service with sufficient postage as first class mail on the date shown below in an envelope addressed to Mail Stop Patent Application, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Dated: January 29, 2004

Rita Hernandez

Applicant : Ernest Chacon  
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Examiner : Not Yet Assigned  
Docket No. : 13710-4001

**INFORMATION DISCLOSURE STATEMENT FILING PROVISION:**

- This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.
- However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.
- However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
- This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.
- The fee due under 37 CFR § 1.17(p) is submitted herewith.
- A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.
- This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

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**STATEMENT UNDER 37 CFR § 1.97(e):**

- Each item contained in this IDS was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

**PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:**

- A check in the amount of \_\_\_\_\_ is enclosed for the above fee(s).
- Please charge \$ to Deposit Account No. **15-0665** for the above fee(s).
- The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Orrick, Herrington & Sutcliffe's Deposit Account No. **15-0665**.

**REMARKS:**

There are eight items listed on Applicant's Form PTO-1449, listed under "Other Documents" and identified as CA through CG. The first four items (CA, CB, CC, and CD) are photographs of containers for various items. Applicant does not know the publication date of any of these items. However, Applicant believes that they are prior art and therefore requests that they be considered as prior art. Similarly, items CE, CF, and CG are products found in the market that are similar to the first four items above (CA, CB, CC, and CD), and are advertised as screwdriver bit holders (CE and CF), or bullet containers (CF). Finally, item CG is a copy of a website printout showing various containers on the market, but which are distinguishable from

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the various embodiments claimed in the present application. Applicant requests that all these items be considered by the Examiner during examination even though Applicant does not know the publication dates.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: January 29, 2004

By: Cynthia A. Wickstrom  
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FORM PTO-1449 (10-96 MODIFIED)  
LIST OF PUBLICATIONS FOR APPLICANT'S  
INFORMATION DISCLOSURE STATEMENT

Substitute for form 1449A/PTO  INFORMATION DISCLOSURE STATEMENT BY APPLICANT  <i>(use as many sheets as necessary)</i>				<i>Complete if Known</i>	
				Application Number	10/638,159
				Filing Date	August 7, 2003
				First Named Inventor	Ernest R. Chacon
				Group Art Unit	1745
				Examiner Name	Not Yet Assigned
Sheet	1	of	1	Attorney Docket Number	13710-4001

U.S. PATENT DOCUMENTS					
Examiner Initials*	Document Number	Date	Name of Patentee or Applicant	Class/SubClass	Filing Date (if appropriate)
	AA				

  

FOREIGN DOCUMENTS					
Examiner Initials*	Document Number	Date	Country	Class/SubClass	Translation
					Yes
	BA				<input type="checkbox"/> <input type="checkbox"/>

OTHER DOCUMENTS		
Examiner Initials*	Document Number	Author, Title, Date, Pertinent Pages, Etc.
	CA	Photo(s) of a black clam shell container that holds 15 items.
	CB	Photo of a yellow plastic holder that holds 9 items, designed to wear on a work belt.
	CC	Photo(s) of a red container that holds 32 bits.
	CD	Photo(s) of a black vinyl container that holds 10 driver bits.
	CE	DeWalt 7 piece screwdriver bit tip set.
	CF	Ace – 6 piece screwdriver bit tip set.
	CG	Grey MTM Case Gard for rifle bullets.
	CH	Copy of website printout depicting various battery containers in the market.

Examiner Signature		Date Considered	
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\* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.